

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LAURA ALLEN, INDIVIDUALLY AND AS
ADMINISTRATRIX OF THE ESTATE OF
DAN ALLEN, AND AS NEXT FRIEND OF
TAYLOR ALLEN AND DANIELLE ALLEN,
and MARK ALLEN,
Plaintiffs

v.

MARTIN SURFACING, INC.; MARTIN
SURFACING, A DIVISION OF SOUTHWEST
RECREATION; RONALD RYBA;
SOUTHWEST RECREATIONAL
INDUSTRIES, INC., d/b/a MARTIN
SURFACING; REED J. SEATON; ROBERT N.
WOLESENSKY, JR.; DYNAMIC SPORTS
CONSTRUCTION, INC. AND DOES,
Defendants

CIVIL ACTION
NO. 05-40048-FDS

**DEFENDANT, REED J. SEATON'S MOTION FOR PROTECTIVE ORDER
AS TO PLAINTIFF'S NOTICE OF TAKING DEPOSITION**

NOW comes the defendant, Reed J. Seaton, and files the within Motion for Protective Order, as follows:

1. The plaintiff has served a "Notice of Deposition" of this defendant, Reed J. Seaton, under cover of correspondence dated December 21, 2005. The said Notice also is dated December 21, 2005. The deposition of Mr. Seaton is purportedly scheduled for Friday, January 27, 2006 at 11:00 a.m.

2. A Scheduling Conference was conducted by the Court in mid-September of this year. As a result of the same, the Court issued a Scheduling Order, which stipulated certain deadlines by which Phase One discovery needed to be completed. According to said Order, "... All depositions, other than expert depositions, must be completed by December 23, 2005." (*emphasis supplied*)

3. The contemplated deposition of Mr. Seaton was, according to the Court's Order, to have been completed by December 23, 2005, a date now past. Plaintiff had ample opportunity to notice Mr. Seaton's deposition on or prior to December 23, 2005, but made no attempt to do so.

4. The deposition of this defendant may not be taken after December 23, 2005 as the same would violate the Court's express order.

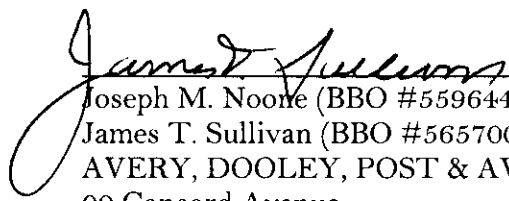
5. In light of the above, defendant, Reed J. Seaton, respectfully moves the Court to issue a protective order absolving him from any request to appear at the deposition referred to.

6. Should the Court be inclined to deny the present motion, this defendant notes that he is a resident of the State of Texas. As such, the said deposition is overly burdensome under the circumstances. Defendant therefore requests that plaintiff reimburse him for his travel and incidental expenses in traveling to Massachusetts to attend the proposed deposition, or, in the alternative, that the same be taken in Texas, or, in the alternative, that the same be taken via electronic means, such that the defendant may remain in Texas for the same.

WHEREFORE, defendant, Reed J. Seaton, requests that his within motion be allowed.

DEFENDANT, REED J. SEATON

By his attorneys,


Joseph M. Noone (BBO #559644)
James T. Sullivan (BBO #565700)
AVERY, DOOLEY, POST & AVERY, LLP
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(617) 489-5300

Dated: December 29, 2005

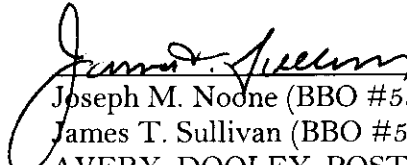
CERTIFICATE OF SERVICE

I, James T. Sullivan, hereby certify that I have this 29th day of December, 2005, forwarded the within ***Defendant, Reed J. Seaton's Motion for Protective Order as to Plaintiff's Notice of Taking Deposition*** to all counsel of record by delivering a copy of same, first class mail, postage prepaid, to:

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